IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 7056 of 2004(M)

PETITIONER:

SREE SAKTHI PAPER MILLS LIMITED,
SREE KAILAS, 57/2993, 94, PALIYAM ROAD,
KOCHI 682 016, REP. BY MANAGING DIRECTOR,
S.RAJKUMAR.

BY ADV. SRI.M.C.MADHAVAN

RESPONDENTS: 1

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1. THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVANAM,
THIRUVANANTHAPURAM 695 004.

2. THE CHIEF ENGINEER (COMMERCIAL AND TARIF
KERALA STATE ELECTRICITY BAORD,VYDYUTHI BHAVANAM,
THIRUVANANTHAPURAM. 695 004.

3. THE SPECIAL OFFICER (REVENUE)
KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, THIRUVANANTHAPURAM -4.

4. THE PRINCIPALSECRETARY TO GOVERNMENT,
POWER (A) DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.N.SUGUNAPALAN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.7056/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF INVOICE DATED 3-9-2003 FOR THE MONTH OF AUGUST, 2003 FOR RS.26,56,533/-.

EXT.P2. TRUE COPY OF INVOICE DATED 6-10-2003 FOR THE MONTH OF SEPTEMBER 2003 FOR RS.17,08,223/-

EXT.P3. TRUE COPY OF INVOICE DATED 4-11-2003 FOR THE MONTH OF OCTOBER 2003 FOR RS.25,96,789/-

EXT.P4. TRUE COPY OF INVOICE DATED 3-12-2003 FOR THE MONTH OF NOVEMBER 2003 FOR RS.29,09,510/-

EXT.P5. TRUE COPY OF INVOICE DATED 5-9-2003 FOR THE MONTH OF AUGUST 2003 FOR RS.17,52,572/-

EXT.P6. TRUE COPY OF INVOICE DATED 7-11-2003 FOR THE MONTH OF OCTOBER 2003 FOR RS.17,09,599/-

EXT.P7. TRUE COPY OF INVOICE DATED 5-12-2003 FOR THE MONTH OF NOVEMBER 2003 FOR RS.16,20,358/-

EXT.P8. TRUE COPY OF LETTER DATED 3-9-2003 FROM THE 3RD RESPONDENT TO M/S.SREESAKTHI PAPER MILLS LTD., CHALAKUDY, FORWARDING THE INVOICE FOR THE MONTH OF AUGUST 2003

EXT.P9. TRUE COPY OF LETTER DATED 27-9-2003 FROM THE PETITIONER TO THE HONOURABLE MINISTER FOR ELECTRICITY, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM

EXT.P10. TRUE COPY OF KERALA GAZETTE EXTRAORDINARY NO.1480 DATED 5-8-2003

RESPONDENTS' EXHIBITS:

EXT.R3(a) TRUE COPY OF THE STATEMENT SHOWING THE DETAILS OF BILLS ISSUED BY THE KERALA STATE ELECTRICITY BOARD.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH, J.

W.P(C)No. 7056 of 2004

Dated this the 10th day of August, 2007

JUDGMENT

Petitioner has mainly two grievances: (1) Ext.P10 amendment to the Regulations has been operated retrospectively; and (2) the effect of the amendment regarding the levy of interest has not been properly applied by the Board. Ext.P10 is the Regulation framed under Section 79(j) of the Electricity (Supply) Act 1948 (Central Act 54 of 1948). It is now settled law that such Regulations will have effect only from the date of publication. (See the decision in Harla v. State of Rajasthan, AIR 1951 SC 467). Therefore Ext.P10 can have effect only from the date of publication of the gazette. As far as the effect of the penalty is concerned, it is submitted that if the dates fall in two different months, penal interest at the rate of 24% is levied for two months. That is not contemplated under the Regulations. Part of a month, as per Ext.P10 amendment, has to be treated as one month for the purpose of calculating interest. That does not mean that if the due date falls in one month and

remittance is in another month, and the delay in between is less than a month penal interest shall be levied for two months. The intention is only that penal interest will be levied for a month even if the delay is for part of a month. Therefore, it is clarified that for the only reason that the due date and remittance falls in two months there shall not be levy of penal interest for a period of two months in case the delay is not beyond 30 days. The bills already issued to the petitioner will be re-worked in the light of this judgment within a period of three months from the date of receipt of a copy of the judgment and the amounts already remitted shall be duly adjusted.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.